CHAPTER 74

AN ACT concerning lead-based paint hazards in residential rental property, including establishing lead-based paint hazard programs, amending P.L.2021, c.182, and repealing section 1 of P.L.2007, c.251.

BE IT ENACTED *by the Senate and General Assembly of the State of New Jersey:*

1. Section 1 of P.L.2021, c.182 (C.52:27D-437.16) is amended to read as follows:

C.52:27D-437.16 Definitions relative to lead-based paint hazards.

1. a. As used in this section:

"Common area" means the interior portions of a building used for residential rental purposes that are generally accessible to residential tenants, but not including the interior of individual dwelling units. Common areas shall include, but not be limited to, hallways, stairs, foyers, basements, laundry rooms, and the interior of attached or detached garages, if the areas are generally accessible to residential tenants and the areas are not located within the interior of an individual dwelling unit.

"Dust wipe sampling" means a sample collected by wiping a representative surface and tested in accordance with a method approved by the United States Department of Housing and Urban Development.

"Dwelling unit" means a single-family living space, including a single family home, or an apartment, room, or rooms within a two-family or multiple-family building, that is occupied or intended to be occupied for sleeping or dwelling purposes by one or more persons living independently of persons in similar dwelling units.

"Planned real estate development" means a planned real estate development, as defined by section 3 of P.L.1977, c.419 (C.45:22A-23).

"Tenant turnover" means the time at which all existing occupants vacate a dwelling unit and all new tenants move into the dwelling unit.

"Visual assessment" means a visual examination for deteriorated paint or visible surface dust, debris, or residue.

b. (1) Subject to subsection c. of this section, in a municipality that maintains a permanent local agency for the purpose of conducting inspections and enforcing laws, ordinances, and regulations concerning buildings and structures within the municipality, either:

(a) the permanent local agency shall inspect each rental dwelling unit, and, in a building consisting of two or three dwelling units, the common area within each building that contains a rental dwelling unit and that is located within the municipality for lead-based paint hazards; or

(b) to provide for the inspection of each rental dwelling unit and, in a building consisting of two or three dwelling units, the common area within each building that contains a rental dwelling unit located within the municipality, the governing body shall enter into a contract with a lead evaluation contractor, certified to provide lead paint inspection services by the Department of Community Affairs, or enter into a shared service agreement with a local unit to inspect those rental dwelling units and the common areas for lead-based paint hazards.

A municipality shall cause the inspection of rental dwelling units and, in a building consisting of two or three dwelling units, common areas for lead-based paint hazards at tenant turnover or within three years of the effective date of P.L.2021, c.182 (C.52:27D-437.16 et al.), whichever is earlier. Thereafter, all such units shall be inspected for lead-based paint hazards the earlier of every three years or upon tenant turnover, except that an inspection upon tenant turnover shall not be required if the owner has a valid lead-safe certification pursuant

to this section. The municipality shall charge the dwelling owner or landlord a fee sufficient to cover the cost of the inspection.

(2) Subject to subsection c. of this section, in a municipality that does not maintain a permanent local agency for the purpose of conducting inspections and enforcing laws, ordinances, and regulations concerning buildings and structures within the municipality, the governing body shall either enter into: a contract with a lead evaluation contractor, certified to provide lead paint inspection services by the Department of Community Affairs, or a shared service agreement with a local unit to inspect each rental dwelling unit and, in a building consisting of two or three dwelling units, the common areas within each building that contains a rental dwelling unit and that is located within the municipality for lead-based paint hazards.

A municipality shall cause the inspection of rental dwelling units for lead-based paint hazards at tenant turnover or within three years of the effective date of P.L.2021, c.182 (C.52:27D-437.16 et al.), whichever is earlier. Thereafter, all such units shall be inspected for lead-based paint hazards the earlier of every three years or upon tenant turnover, except that an inspection upon tenant turnover shall not be required if the owner has a valid lead-safe certification pursuant to this section. The municipality shall charge the dwelling owner or landlord a fee sufficient to cover the cost of the inspection, including the cost of hiring the lead evaluation contractor.

(3) A municipality shall permit the dwelling owner or landlord to directly hire a lead evaluation contractor who is certified to provide lead paint inspection services by the Department of Community Affairs to satisfy the requirements of paragraph (1) or (2) of this subsection.

(4) A permanent local agency or lead evaluation contractor with the duty to inspect single-family, two-family, and multiple rental dwellings pursuant to this section may consult with the local health board, the Department of Health, or the Department of Community Affairs concerning the criteria for the inspection and identification of areas and conditions involving a high risk of lead poisoning in dwellings, methods of detection of lead in dwellings, and standards for the repair of dwellings containing lead paint.

(5) Fees established pursuant to this subsection shall be dedicated to meeting the costs of implementing and enforcing this subsection and shall not be used for any other purpose.

c. Notwithstanding subsection b. of this section to the contrary, a dwelling unit shall not be subject to inspection and evaluation for the presence of lead-based paint hazards if the unit:

(1) has been certified to be free of lead-based paint;

(2) was constructed during or after 1978;

(3) is in a multiple-family building that has been registered with the Department of Community Affairs as a multiple family building for at least 10 years, either under the current or a previous owner, and has no outstanding lead-based paint violations from the two most recent cyclical inspections performed under the "Hotel and Multiple Dwelling Law," P.L.1967, c.76 (C.55:13A-1 et seq.);

(4) is a single-family or two-family seasonal rental dwelling which is rented for less than six months duration each year by tenants that do not have consecutive lease renewals; or

(5) has a valid lead-safe certification issued in accordance with this section.

d. (1) If a lead evaluation contractor or permanent local agency finds that a lead-based paint hazard exists in a dwelling unit upon conducting an inspection pursuant to this section, then the owner of the dwelling unit shall remediate the lead-based paint hazard by using abatement or lead-based paint hazard control methods, approved in accordance with the provisions of the "Lead Hazard Control Assistance Act," P.L.2003, c.311 (C.52:27D-437.1 et al.). Upon the remediation of the lead-based paint hazard, the lead evaluation contractor or permanent local agency shall conduct an additional inspection of the unit to certify that the hazard no longer exists.

(2) If a lead evaluation contractor or permanent local agency finds that no lead-based paint hazards exist in a dwelling unit upon conducting an inspection pursuant to this section or following remediation of a lead-based paint hazard pursuant to paragraph (1) of this subsection, then the lead evaluation contractor or permanent local agency shall certify the dwelling unit as lead-safe on a form prescribed by the Department of Community Affairs as provided for in regulations or guidance promulgated pursuant to section 8 of P.L.2021, c.182 (C.52:27D-437.20). The lead-safe certification provided to the property owner by the lead evaluation contractor or permanent local agency pursuant to this paragraph shall be valid for three years.

e. Beginning on the effective date of P.L.2021, c.182 (C.52:27D-437.16 et al.), property owners shall:

(1) (Deleted by amendment, P.L.2024, c.74)

(2) provide evidence of a valid lead-safe certification obtained pursuant to this section to new tenants of the property at the time of tenant turnover unless not required to have had an inspection by a lead evaluation contractor or permanent local agency pursuant to paragraphs (1), (2), (3), or (4) of subsection c. of this section and shall affix a copy of such certification as an exhibit to the tenant's or tenants' lease; and

(3) maintain a record of the lead-safe certification which shall include the name or names of the unit's tenant or tenants, if the inspection was conducted during a period of tenancy, unless not required to have had an inspection by a lead evaluation contractor or permanent local agency pursuant to paragraphs (1), (2), (3), or (4) of subsection c. of this section.

f. Each municipality shall deliver to the Department of Community Affairs a list identifying each dwelling unit inspected pursuant to this section and each dwelling unit determined to contain a lead-based paint hazard. The department shall, pursuant to section 2 of P.L.1991, c.164 (C.52:14-19.1), submit an annual report to the Legislature indicating the number of inspected dwelling units identified to have lead-based paint hazards. The report shall list the number of inspected dwellings and dwelling units identified to have lead-based paint hazards within each county.

g. (1) If a dwelling is located in a municipality in which less than three percent of children tested, six years of age or younger, have a blood lead reference value greater than or equal to five ug/dL or any other blood lead level adopted by the Department of Health, according to the central lead screening database maintained by the Department of Health pursuant to section 5 of P.L.1995, c.328 (C.26:2-137.6), or according to other data deemed appropriate by the Commissioner of Community Affairs, then a lead evaluation contractor or permanent local agency may inspect for lead-based paint hazards through visual assessment. The Commissioner of Community Affairs may determine an appropriate blood lead reference value on the basis of multiple years of data.

(2) If a dwelling unit is located in a municipality in which at least three percent of children tested, six years of age or younger, have a blood lead reference value greater than or equal to five ug/dL or any other blood lead level adopted by the Department of Health, according to the central lead screening database maintained by the Department of Health pursuant to section 5 of P.L.1995, c.328 (C.26:2-137.6), or according to other data deemed appropriate by the Commissioner of Community Affairs, then a lead evaluation contractor or permanent local agency shall inspect for lead-based paint hazards through dust wipe sampling. The Commissioner of Community Affairs may determine an appropriate blood lead reference value on the basis of multiple years of data. The disclosure of this data for the purposes of this section shall not constitute the disclosure of the identity of a child pursuant to section 5 of P.L.1995, c.328 (C.26:2-137.6).

(3) If a lead hazard is identified in an inspection of one of the dwelling units in a building consisting of two- or three-dwelling units, then the lead evaluation contractor or permanent local agency shall inspect the remainder of the building's dwelling units for lead hazards, with the exception of dwelling units that have been certified to be lead-safe. The lead evaluation contractor or permanent local agency may charge fees in accordance with this section for such additional inspections.

(4) If a dwelling owner or landlord directly hires a lead evaluation contractor who is certified to provide lead paint inspection services by the Department of Community Affairs to complete the inspection required under paragraph (1) of this subsection, then the owner may elect to have the inspection performed through dust wipes in lieu of visual examination.

h. In addition to the fees permitted to be charged for inspection of rental housing pursuant to this section, each municipality shall assess an additional fee of $20 per unit inspected by a certified lead evaluation contractor or permanent local agency for the purposes of the "Lead Hazard Control Assistance Act," P.L.2003, c.311 (C.52:27D-437.1 et al.) concerning lead hazard control work, unless the unit owner demonstrates that the Department of Community Affairs has already assessed an additional inspection fee of $20 pursuant to the provisions of section 10 of P.L. 2003, c. 311 (C.52:27D-437.10). In a planned real estate development, any inspection fee charged pursuant to this subsection shall be the responsibility of the unit owner and not the homeowners' association, unless the association is the owner of the unit. The fees collected pursuant to this subsection shall be deposited into the "Lead Hazard Control Assistance Fund" established pursuant to section 4 of P.L.2003, c.311 (C.52:27D-437.4).

2. Section 2 of P.L.2021, c.182 (C.52:27D-437.17) is amended to read as follows:

C.52:27D-437.17 Statewide multifaceted, ongoing educational program relative to lead-based paint hazards.

2. a. The Department of Community Affairs, in consultation with the Department of Health, shall establish a Statewide educational program designed to meet the needs of tenants, property owners, realtors and real estate agents, insurers and insurance agents, and local building officials about the nature of lead-based paint hazards, the importance of lead-based paint hazard control and mitigation, and the responsibilities set forth in P.L.2021, c.182 (C.52:27D-437.16 et al.). In developing this program, the department shall:

(1) create an electronic version of the program which shall be available on the Internet. The program shall not exceed three hours;

(2) promulgate, pursuant to the "Administrative Procedure Act," P.L.1968, c.410 (C.52:14B-1 et seq.), rules for the dissemination of information about the requirements of P.L.2021, c.182 (C.52:27D-437.16 et al.) to all prospective owners of pre-1978 dwellings during the real estate transaction, settlement, or closing;

(3) provide updated educational materials regarding amendments to P.L.2021, c.182 or changes to the regulations adopted pursuant thereto; and

(4) solicit requests to enter into ongoing, funded partnerships to provide specific counseling information services to tenants and affected parties on their rights and responsibilities with regard to lead-based paint hazards and lead poisoning.

b. (Deleted by amendment, P.L.2024, c.74)

c. (Deleted by amendment, P.L.2024, c.74)

Repealer.

3. Section 1 of P.L.2007, c.251 (C.55:13A-12.2) is repealed.

4. This act shall take effect immediately, however, the provisions of subsection b. of section 1 of P.L.2021, c.182 (C.52:27D-437.16), which authorize a municipal governing body to provide lead-based paint inspection services by contract or shared service agreement, shall apply retroactively to authorize an agreement entered into on or after July 22, 2022.

Approved September 12, 2024.